

**REMARKS**

**I. Status of the Claims**

Claims 1-92, 94, and 95 are pending. Claim 93 has been canceled without prejudice or disclaimer. Claims 1, 72, 77, 81, 82, 84, and 85 have been amended. The specification has also been amended to correspond with the terms of formula (II) as recited in the claims.

No new matter has been added by these amendments, nor do these amendments raise new issues or necessitate the undertaking of any additional search of the art by the Office. Therefore, this Amendment under 37 C.F.R. § 1.116 should allow for immediate action by the Examiner. The proposed amendments, moreover, place the claims in condition for allowance or, at least, in better form for appeal, if necessary. Accordingly, Applicants respectfully request the amendments be entered and the instant application be reconsidered.

**II. Rejections Under 35 U.S.C. § 112, Second Paragraph**

On pages 2-3 of the present Office Action, the Examiner has maintained the rejection of claims 77 and 85 under 35 U.S.C. § 112, second paragraph, as indefinite for failing to point out and distinctly claim the subject matter which Applicants regard as the invention. Applicants respectfully traverse this rejection.

The Examiner has maintained the rejection of claim 77 because "[t]he term 'satisfactory' in claim 77 is a relative term which renders the claim indefinite." (Office Action dated November 19, 2001, page 2, line 14.) Applicants disagree and respectfully

continue to traverse this reason for rejection for the reasons of record. In order to facilitate prosecution, however, Applicants have amended claim 77 by deleting the term "satisfactory." Thus, the at least one surfactant recited in amended claim 77 is present in an amount effective to provide foaming power and detergent power.

The Examiner has maintained the rejection of claim 85 because "the term 'type' renders the claim indefinite." (Office Action dated November 19, 2001, page 2, line 21.) Applicants disagree and respectfully continue to traverse this reason for rejection for the reasons of record. Applicants, however, to further prosecution, have amended claim 85 by removing the term "type" and adding polyolefins disclosed on page 8, lines 5-22, of the specification. Thus, the nomenclature of claim 88 clearly delineates the scope of the claimed synthetic oils chosen from hydrogenated and non-hydrogenated polybutenes, hydrogenated and non-hydrogenated polyisobutenes, and hydrogenated and non-hydrogenated polydecenes.

Accordingly, because Applicants have rendered moot the instant rejections of claims 77 and 85, Applicants respectfully request that the rejections be withdrawn.

### III. Rejections Under 35 U.S.C. § 103(a)

The Examiner has maintained, as unpatentable under 35 U.S.C. § 103(a), the rejection of (A) claims 1-16, 70-92, 94, and 95 over European Patent No. EP 0874017 to *Dalle et al.* ("*Dalle*") taken with U.S. Patent No. 5,679,357 to *Dubief et al.* ("*Dubief*"), (B) claims 17-43 over the *Dalle/Dubief* combination in further view of U.S. Patent No. 6,039,936 to *Restle et al.* ("*Restle*"), (C) claims 44-69 over the *Dalle/Restle* combination in further view of U.S. Patent No. 6,150,311 to *Decoster et al.* ("*Decoster*"), and (D)

claim 93 over the *Dalle/Restle/Decoster* combination in further view of U.S. Patent No. 6,099,826 to *Ramin* ("*Ramin*").

Applicants have amended all of the independent claims, claims 1, 72, 81, 82, and 84, by removing the ceramides of formula (I), which allegedly were suggested by the *Dalle/Dubief* combination. Thus, as Applicants have rendered moot the Examiner's rejections under § 103, they respectfully request withdrawal of these rejections.

**IV. Conclusion**

In view of the foregoing amendments and remarks, Applicants respectfully request the reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

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GARRETT & DUNNER, L.L.P.

  
By: \_\_\_\_\_

Michele L. Mayberry  
Reg. No. 45,644

Dated: May 17, 2002

Attachment:            Appendix: Version with Markings to Show Changes Made

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hydrogen atom or aliphatic groups comprising an ethylenic unsaturation, such as vinyl, allyl and hexenyl groups;

-  $R_2$   $R_5$  in formula (I) (II), which may be identical or different, are independently chosen from hydroxyl, alkyl, alkenyl, cycloalkyl, aryl, and alkylaryl groups, and can optionally further comprise at least one functional groups group, such as at least one functional group chosen from ethers, amines, carboxyls, hydroxyls, thiols, esters, sulfonates and sulfates; wherein:

- the alkyl groups comprise, for example, 1 to 20 carbon atoms; the alkenyl groups comprise, for example, from 2 to 10 carbon atoms; the cycloalkyl groups comprise, for example, 5 or 6 carbon atoms; the aryl groups comprise, for example, phenyl groups; and the alkylaryl groups comprise, for example, from 7 to 20 carbon atoms;

- In one embodiment,  $R_2$  is chosen from methyl;

- n is an integer wherein the polysiloxane of formula (I) (II) has a kinematic viscosity ranging from 1 to  $1 \times 10^6$  mm<sup>2</sup>/s, for example, n may range from 5 to 5000; and

- (b) at least one silicone compound comprising at least one and not more than two groups capable of reacting with the groups  $R_4$   $R_4$  of the at least one polysiloxane (a) of formula (II), wherein:

- at least one of the ~~compounds of type (a) and (b)~~ at least one polysiloxane of formula (II) and the at least one silicone compound (b) comprises an

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aliphatic group, such as a C<sub>2</sub>-C<sub>6</sub> aliphatic group, comprising an ethylenic unsaturation.

The ~~compounds of type (b)~~ at least one silicone compound (b) can be another polysiloxane of ~~type (a)~~ formula (II) in which at least one and not more than two groups ~~R<sub>4</sub> R<sub>4</sub> of the polysiloxane (b)~~ the at least one silicone compound (b) can react with the groups ~~R<sub>4</sub> R<sub>4</sub> of the polysiloxane (a)~~ at least one polysiloxane of formula (II).

IN THE CLAIMS:

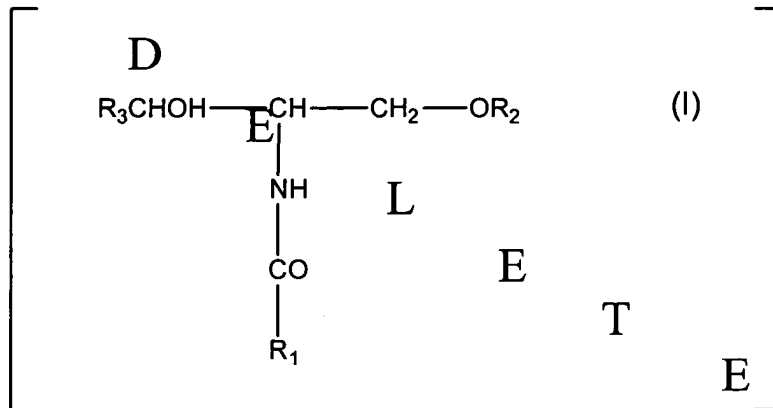
Please cancel claim 93 without prejudice or disclaimer and replace claims 1, 72, 77, 81, 82, 84, and 85 with amended claims 1, 72, 77, 81, 82, 84, and 85, as follows:

1. (Amended) A cosmetic composition comprising:

(1) at least one conditioner chosen from:

- synthetic oils;
- animal oils;
- plant oils;
- fluoro oils;
- perfluoro oils;
- natural waxes; and
- synthetic waxes; and
- ~~-ceramides of formula (I) :~~

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wherein:

~~\_\_\_\_\_ R<sub>1</sub> is chosen from linear and branched, saturated and unsaturated alkyl groups derived from at least one C<sub>14</sub>-C<sub>30</sub> fatty acid, wherein said R<sub>1</sub> is optionally substituted with at least one hydroxyl group in the position, and wherein said R<sub>1</sub> may optionally be substituted with at least one hydroxyl group in the □ position wherein said at least one hydroxyl group is esterified with at least one group chosen from saturated and unsaturated C<sub>16</sub>-C<sub>30</sub> fatty acids;~~

~~\_\_\_\_\_ R<sub>2</sub> is chosen from a hydrogen atom, (glycosyl)<sub>n</sub> groups, (galactosyl)<sub>m</sub> groups and sulphogalactosyl groups, wherein n is an integer ranging from 1 to 4 and m is an integer ranging from 1 to 8;~~

~~\_\_\_\_\_ R<sub>3</sub> is chosen from C<sub>15</sub>-C<sub>26</sub> hydrocarbon-based groups, optionally saturated in the position, wherein said R<sub>3</sub> is optionally substituted with at least one C<sub>4</sub>-C<sub>14</sub> alkyl group;~~

~~with the proviso that when said ceramides of formula (I) are chosen from natural ceramides and natural glycosceramides, R<sub>3</sub> may also be chosen from C<sub>15</sub>-C<sub>26</sub>~~

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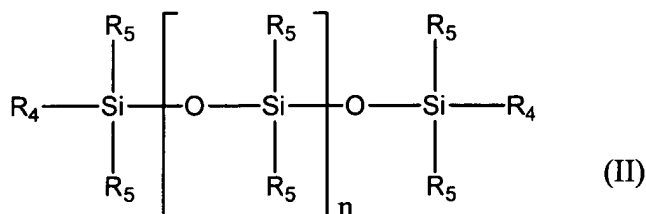
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~~hydroxyalkyl groups wherein the hydroxyl group is optionally esterified with at least one C<sub>46</sub>-C<sub>30</sub> hydroxy acid group; and~~

(2) at least one silicone copolymer with a dynamic viscosity ranging from  $1 \times 10^6$  to  $100 \times 10^6$  cP, resulting from the addition reaction, in the presence of a catalyst, of:

- (a) at least one polysiloxane of formula (II):



in which:

- R<sub>4</sub>, which may be identical or different, are independently chosen from groups that can react by chain addition reaction,

- R<sub>5</sub>, which may be identical or different, are independently chosen from alkyl, alkenyl, cycloalkyl, aryl, hydroxyl, and alkylaryl groups, and can optionally further comprise at least one functional group, - n is an integer wherein the polysiloxane of formula (II) has a kinematic viscosity ranging from 1 to  $1 \times 10^6$  mm<sup>2</sup>/s; and

- (b) at least one silicone compound comprising at least one and not more than two groups capable of reacting with the groups R<sub>4</sub> of the at least one polysiloxane of formula (II), wherein:



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- at least one of the at least one polysiloxane of formula (II) and the at least one silicone compound **of type** (b) comprises an aliphatic group comprising an ethylenic unsaturation.

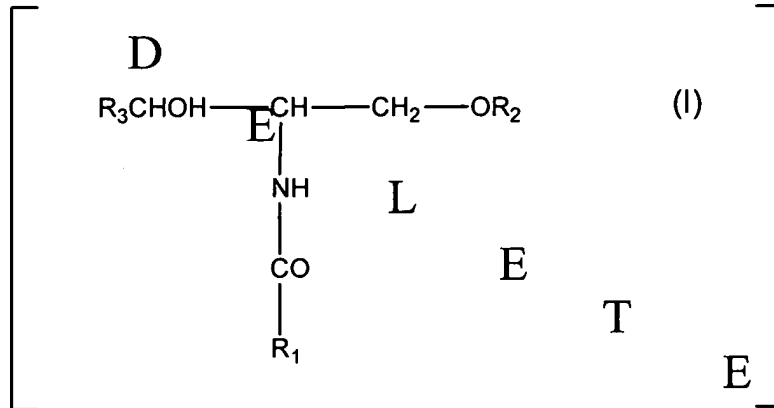
72. (Amended) A rinse-out conditioner, a leave-in conditioner, a composition for permanent-waving the hair, a composition for straightening the hair, a composition for dyeing the hair, a composition for bleaching the hair, a rinse-out composition to be applied before a procedure chosen from dyeing, bleaching, permanent-waving and straightening the hair, a rinse-out composition to be applied after a procedure chosen from dyeing, bleaching, permanent-waving and straightening the hair, a rinse-out composition to be applied between the two steps of a permanent-waving operation, a rinse-out composition to be applied between the two steps of a hair-straightening operation, a washing composition for the body, an aqueous lotion, an aqueous-alcoholic lotion, a gel, a milk, a cream, an emulsion, a thickened lotion, a mousse, or a detergent composition comprising a washing base comprising:

(1) at least one conditioner chosen from:

- synthetic oils;
- animal oils;
- plant oils;
- fluoro oils;
- perfluoro oils;
- natural waxes; **and**
- synthetic waxes; **and**

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~~-ceramides of formula (I) :-~~



~~wherein:~~

~~\_\_\_\_\_ R<sub>1</sub> is chosen from linear and branched, saturated and unsaturated alkyl groups derived from at least one C<sub>14</sub>-C<sub>30</sub> fatty acid, wherein said R<sub>1</sub> is optionally substituted with at least one hydroxyl group in the position, and wherein said R<sub>1</sub> may optionally be substituted with at least one hydroxyl group in the □ position wherein said at least one hydroxyl group is esterified with at least one group chosen from saturated and unsaturated C<sub>16</sub>-C<sub>30</sub> fatty acids;~~

~~\_\_\_\_\_ R<sub>2</sub> is chosen from a hydrogen atom, (glycosyl)<sub>n</sub> groups, (galactosyl)<sub>m</sub> groups and sulphogalactosyl groups, wherein n is an integer ranging from 1 to 4 and m is an integer ranging from 1 to 8;~~

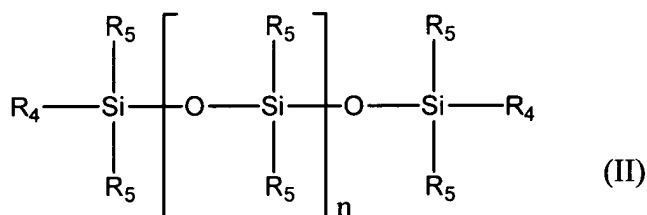
~~\_\_\_\_\_ R<sub>3</sub> is chosen from C<sub>15</sub>-C<sub>26</sub> hydrocarbon-based groups, optionally saturated in the position, wherein said R<sub>3</sub> is optionally substituted with at least one C<sub>4</sub>-C<sub>14</sub> alkyl group;~~

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~~with the proviso that when said ceramides of formula (I) are chosen from natural ceramides and natural glycosceramides, R<sub>3</sub> may also be chosen from C<sub>15</sub>-C<sub>26</sub>-hydroxyalkyl groups wherein the hydroxyl group is optionally esterified with at least one C<sub>16</sub>-C<sub>30</sub>-hydroxy acid group; and~~

(2) at least one silicone copolymer with a dynamic viscosity ranging from 1 x 10<sup>6</sup> to 100 x 10<sup>6</sup> cP, resulting from the addition reaction, in the presence of a catalyst, of:

- (a) at least one polysiloxane of formula (II):



in which:

- R<sub>4</sub>, which may be identical or different, are independently chosen from groups that can react by chain addition reaction,

- R<sub>5</sub> in formula (II), which may be identical or different, are independently chosen from alkyl, alkenyl, cycloalkyl, aryl, hydroxyl, and alkylaryl groups, and can optionally further comprise at least one functional group, - n is an integer wherein the polysiloxane of formula (II) has a kinematic viscosity ranging from 1 to 1 x 10<sup>6</sup> mm<sup>2</sup>/s; and

(b) at least one silicone compound comprising at least one and not more than two groups capable of reacting with the groups R<sub>4</sub> of the at least one polysiloxane of formula (II), wherein:

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- at least one of the at least one polysiloxane of formula (II) and the at least one silicone compound ~~of type~~ (b) comprises an aliphatic group comprising an ethylenic unsaturation.

77. (Once Amended) A detergent composition according to claim 76, wherein said at least one surfactant is present in an amount effective to provide ~~satisfactory~~ foaming power and ~~satisfactory~~ detergent power.

81. (Amended) A process of washing or caring for a keratin material comprising applying to said keratin material a composition comprising:

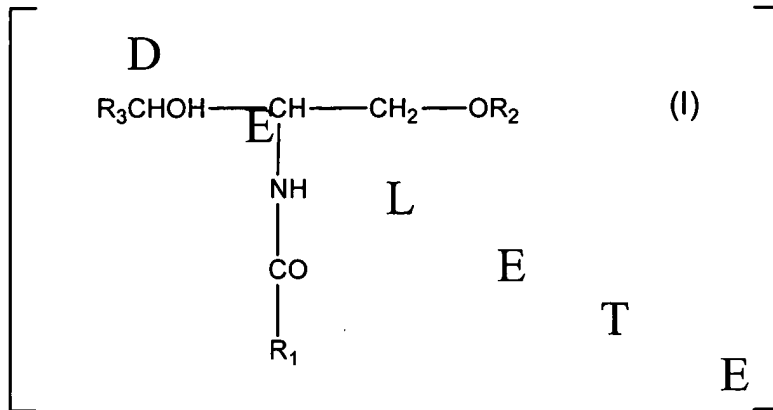
(1) at least one conditioner chosen from:

- synthetic oils;
- animal oils;
- plant oils;
- fluoro oils;
- perfluoro oils;
- natural waxes; and
- synthetic waxes; and
- ~~- ceramides of formula (I) :~~

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wherein:

~~R<sub>1</sub> is chosen from linear and branched, saturated and unsaturated alkyl groups derived from at least one C<sub>14</sub>-C<sub>30</sub> fatty acid, wherein said R<sub>1</sub> is optionally substituted with at least one hydroxyl group in the position, and wherein said R<sub>1</sub> may optionally be substituted with at least one hydroxyl group in the □ position wherein said at least one hydroxyl group is esterified with at least one group chosen from saturated and unsaturated C<sub>16</sub>-C<sub>30</sub> fatty acids;~~

~~R<sub>2</sub> is chosen from a hydrogen atom, (glycosyl)<sub>n</sub> groups, (galactosyl)<sub>m</sub> groups and sulphogalactosyl groups, wherein n is an integer ranging from 1 to 4 and m is an integer ranging from 1 to 8;~~

~~R<sub>3</sub> is chosen from C<sub>15</sub>-C<sub>26</sub> hydrocarbon-based groups, optionally saturated in the position, wherein said R<sub>3</sub> is optionally substituted with at least one C<sub>4</sub>-C<sub>14</sub> alkyl group;~~

~~with the proviso that when said ceramides of formula (I) are chosen from natural ceramides and natural glycosceramides, R<sub>3</sub> may also be chosen from C<sub>15</sub>-C<sub>26</sub>~~

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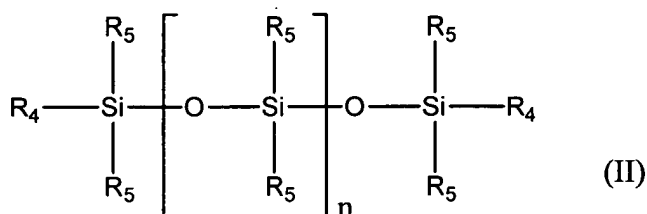
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~~hydroxyalkyl groups wherein the hydroxyl group is optionally esterified with at least one C<sub>16</sub>-C<sub>30</sub> hydroxy acid group;~~ and

(2) at least one silicone copolymer with a dynamic viscosity ranging from  $1 \times 10^6$  to  $100 \times 10^6$  cP, resulting from the addition reaction, in the presence of a catalyst, of:

- (a) at least one polysiloxane of formula (II):



in which:

- R<sub>4</sub>, which may be identical or different, are independently chosen from groups that can react by chain addition reaction,

- R<sub>5</sub> in formula (II), which may be identical or different, are independently chosen from alkyl, alkenyl, cycloalkyl, aryl, hydroxyl, and alkylaryl groups, and can optionally further comprise at least one functional group, - n is an integer wherein the polysiloxane of formula (II) has a kinematic viscosity ranging from 1 to  $1 \times 10^6$  mm<sup>2</sup>/s; and

- (b) at least one silicone compound comprising at least one and not more than two groups capable of reacting with the groups R<sub>4</sub> of the at least one polysiloxane of formula (II), wherein:

- at least one of the at least one polysiloxane of formula (II) and the at least one silicone compound of type (b) comprises an aliphatic group comprising an ethylenic unsaturation.

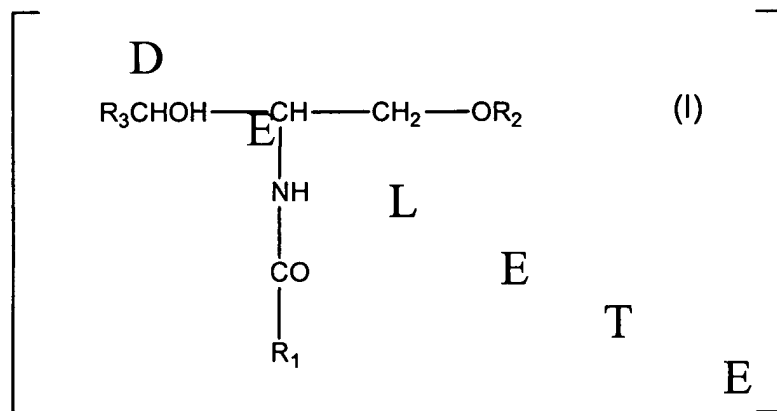
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82. (Amended) A process for treating a keratin material comprising applying to said keratin material a composition comprising:

(1) at least one conditioner chosen from:

- synthetic oils;
- animal oils;
- plant oils;
- fluoro oils;
- perfluoro oils;
- natural waxes; and
- synthetic waxes; and

~~-ceramides of formula (I) :~~



wherein:

~~\_\_\_\_\_ R<sub>1</sub> is chosen from linear and branched, saturated and unsaturated alkyl groups derived from at least one C<sub>14</sub>-C<sub>30</sub> fatty acid, wherein said R<sub>1</sub> is optionally substituted with at least one hydroxyl group in the position, and~~

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~~wherein said R<sub>1</sub> may optionally be substituted with at least one hydroxyl group in the □ position wherein said at least one hydroxyl group is esterified with at least one group chosen from saturated and unsaturated C<sub>16</sub>-C<sub>30</sub> fatty acids;~~

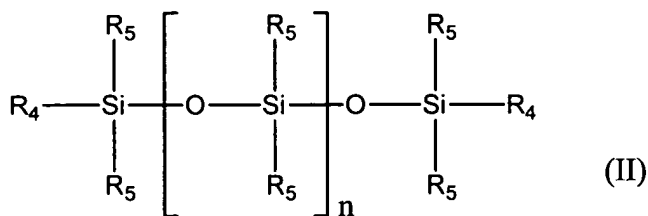
~~\_\_\_\_\_ R<sub>2</sub> is chosen from a hydrogen atom, (glycosyl)<sub>n</sub> groups, (galactosyl)<sub>m</sub> groups and sulphogalactosyl groups, wherein n is an integer ranging from 1 to 4 and m is an integer ranging from 1 to 8;~~

~~\_\_\_\_\_ R<sub>3</sub> is chosen from C<sub>15</sub>-C<sub>26</sub> hydrocarbon-based groups, optionally saturated in the α position, wherein said R<sub>3</sub> is optionally substituted with at least one C<sub>1</sub>-C<sub>14</sub> alkyl group;~~

~~with the proviso that when said ceramides of formula (I) are chosen from natural ceramides and natural glycosceramides, R<sub>3</sub> may also be chosen from C<sub>15</sub>-C<sub>26</sub> hydroxyalkyl groups wherein the hydroxyl group is optionally esterified with at least one C<sub>16</sub>-C<sub>30</sub> hydroxy acid group; and~~

(2) at least one silicone copolymer with a dynamic viscosity ranging from 1 x 10<sup>6</sup> to 100 x 10<sup>6</sup> cP, resulting from the addition reaction, in the presence of a catalyst, of:

- (a) at least one polysiloxane of formula (II):



in which:

- R<sub>4</sub>, which may be identical or different, are independently chosen from groups that can react by chain addition reaction,



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- R<sub>5</sub> in formula (II), which may be identical or different, are independently chosen from alkyl, alkenyl, cycloalkyl, aryl, hydroxyl, and alkylaryl groups, and can optionally further comprise at least one functional group, - n is an integer wherein the polysiloxane of formula (II) has a kinematic viscosity ranging from 1 to 1 x 10<sup>6</sup> mm<sup>2</sup>/s; and

- (b) at least one silicone compound comprising at least one and not more than two groups capable of reacting with the groups R<sub>4</sub> of the at least one polysiloxane of formula (II), wherein:

- at least one of the at least one polysiloxane of formula (II) and the at least one silicone compound ~~of type~~ (b) comprises an aliphatic group comprising an ethylenic unsaturation, and optionally rinsing said composition out with water.

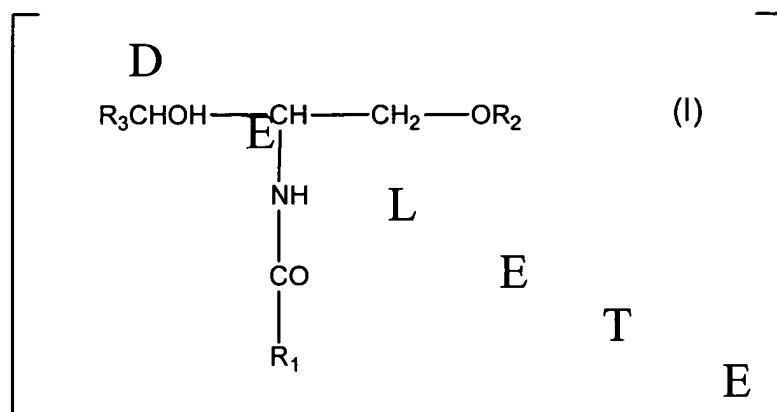
84. (Amended) A process for manufacturing a cosmetic product comprising including in said product:

(1) at least one conditioner chosen from:

- synthetic oils;
- animal oils;
- plant oils;
- fluoro oils;
- perfluoro oils;
- natural waxes; and
- synthetic waxes; and

~~-ceramides of formula (I) :-~~

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wherein:

~~R<sub>1</sub> is chosen from linear and branched, saturated and unsaturated alkyl groups derived from at least one C<sub>14</sub>-C<sub>30</sub> fatty acid, wherein said R<sub>1</sub> is optionally substituted with at least one hydroxyl group in the position, and wherein said R<sub>1</sub> may optionally be substituted with at least one hydroxyl group in the □ position wherein said at least one hydroxyl group is esterified with at least one group chosen from saturated and unsaturated C<sub>16</sub>-C<sub>30</sub> fatty acids;~~

~~R<sub>2</sub> is chosen from a hydrogen atom, (glycosyl)<sub>n</sub> groups, (galactosyl)<sub>m</sub> groups and sulphogalactosyl groups, wherein n is an integer ranging from 1 to 4 and m is an integer ranging from 1 to 8;~~

~~R<sub>3</sub> is chosen from C<sub>15</sub>-C<sub>26</sub> hydrocarbon-based groups, optionally saturated in the position, wherein said R<sub>3</sub> is optionally substituted with at least one C<sub>4</sub>-C<sub>14</sub> alkyl group;~~

~~with the proviso that when said ceramides of formula (I) are chosen from natural ceramides and natural glycosceramides, R<sub>3</sub> may also be chosen from C<sub>15</sub>-C<sub>26</sub>~~

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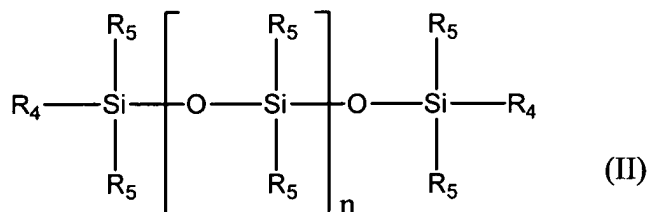
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~~hydroxyalkyl groups wherein the hydroxyl group is optionally esterified with at least one C<sub>16</sub>-C<sub>30</sub> hydroxy acid group;~~ and

(2) at least one silicone copolymer with a dynamic viscosity ranging from  $1 \times 10^6$  to  $100 \times 10^6$  cP, resulting from the addition reaction, in the presence of a catalyst, of:

- (a) at least one polysiloxane of formula (II):



in which:

- R<sub>4</sub> which may be identical or different, are independently chosen from groups that can react by chain addition reaction,

- R<sub>5</sub> in formula (II), which may be identical or different, are independently chosen from alkyl, alkenyl, cycloalkyl, aryl, hydroxyl, and alkylaryl groups, and can optionally further comprise at least one functional group,- n is an integer wherein the polysiloxane of formula (II) has a kinematic viscosity ranging from 1 to  $1 \times 10^6$  mm<sup>2</sup>/s; and

- (b) at least one silicone compound comprising at least one and not more than two groups capable of reacting with the groups R<sub>4</sub> of the at least one polysiloxane of formula (II), wherein:

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- at least one of the at least one polysiloxane of formula (II) and the at least one silicone compound ~~of type~~ (b) comprises an aliphatic group comprising an ethylenic unsaturation.

85. (Once Amended) A composition according to Claim 1, wherein said synthetic oils are chosen from ~~polyolefins of hydrogenated polybutene type,~~  
~~polyolefins of non-hydrogenated polybutene type, polyolefins of hydrogenated~~  
~~polydecene type and polyolefins of non-hydrogenated polydecene type~~  
hydrogenated polybutene, non-hydrogenated polybutene, hydrogenated  
polyisobutene, non-hydrogenated polyisobutene, hydrogenated polydecene, and  
non-hydrogenated polydecene.

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